

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JOHN PAUL SMITH JR.

Plaintiff,

v.

AARON WHITE et al.,

Defendants.

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Case No. CIV-24-188-G

ORDER

Plaintiff John Paul Smith Jr., a state prisoner appearing pro se, herein brings federal civil rights claims pursuant to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b)(1), the matter was referred to Magistrate Judge Suzanne Mitchell for preliminary review.

Plaintiff filed his Complaint (Doc. No. 1) on October 6, 2023, identifying five defendants. Defendants Captain C. Longhorn (Crystal Longhorn), Sergeant Murphy (Michael Murphy), and Captain Aaron White, appearing through counsel, have filed a Motion to Dismiss (Doc. No. 30), to which Plaintiff has filed a Response (Doc. No. 33).¹

On May 9, 2024, Judge Mitchell issued a Report and Recommendation as to the Motion to Dismiss. *See* R. & R. (Doc. No. 38). In the Report and Recommendation, Judge Mitchell advised the parties of their right to object within 21 days. Judge Mitchell also advised that a failure to timely object would constitute a waiver of the right to appellate review of the factual findings and legal conclusions contained in the Report and

¹ The summonses issued as to Defendants Warden Luke Pettigrew and Unit Manager A. Mondon were returned unexecuted, and these Defendants have not appeared in the case as of this date. *See* Doc. Nos. 21, 23.

Recommendation.

As of this date, no party has submitted an objection to the Report and Recommendation or sought leave for additional time to do so.

CONCLUSION

Accordingly, the Report and Recommendation (Doc. No. 38) is ADOPTED in its entirety. The Motion to Dismiss (Doc. No. 30) is GRANTED, as follows:

- Plaintiff's federal claims against Defendants Longhorn, Murphy, and White are dismissed without prejudice, pursuant to Federal Rule of Civil Procedure 12(b)(6);
- Plaintiff's federal claims against Defendants Pettigrew and Mondon are dismissed without prejudice, pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1); and
- To any extent the Complaint raises claims under state law, the Court declines to exercise supplemental jurisdiction over such claims.

A separate judgment shall be entered.

IT IS SO ORDERED this 27th day of June, 2024.



CHARLES B. GOODWIN
United States District Judge